

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

M E M O R A N D U M

Honorable William B. Shubb  
United States District Judge  
Sacramento, California

**RE: Marcos Lesmon BENAVIDEZ**  
**Docket Number: 2:04CR00315-01**  
**THIRD PARTY RISK ADVISEMENT**

Your Honor:

The purpose of this letter is to advise the Court of a plan developed by the Probation Office in the Central District of California to minimize third party risk in the above named case.

After pleading guilty to a violation of 18 USC 1341 - Mail Fraud, on April 26, 2006, Mr. Benavidez was sentenced in the Eastern District of California by Your Honor to a 24- month term of imprisonment to be followed by a 36-month term of supervised release, \$100 special assessment, and \$900,000 restitution. In addition to the standard conditions of supervision, Mr. Benavidez was ordered to comply with the following special conditions: Submit to search; Not dispose of or otherwise dissipate any assets; Not incur new credit charges; and Submit to collection of DNA.

Based on the prior state level convictions for Misdemeanor Sexual Battery and Child Molestation, modifications to Mr. Benavidez' Federal conditions of supervision were sought and granted in 2008. The additional orders include: Register with the state sex offender registration and provide proof; Participate in mental health treatment; Participate in sex offender treatment program; Aftercare co-payment; Not associate with person under age of 18; and Employment approval by the probation officer.

Mr. Benavidez released from the custody of the Bureau of Prisons on February 29, 2008, and commenced supervision in the Central District of California.

Since his release, Mr. Benavidez has worked as a food preparer in a tea room owned and operated by his wife. Mr. Benavidez's teenage son is also employed by the business as

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a food server. The establishment serves various teas, finger sandwiches and sweets. For a short period of time, due to poor economic conditions, Mr. Benavidez was also acting as a food server.

The probation officer in the Central District of California recently determined that on occasion, minor children accompanied by an adult may be customers at the tea room. The offender indicates that the establishment averages one children's party per month and attendance ranges from 4 to 10 children at each party. The offender reports that the children are present with an adult guardian or parent. His wife's business also offers "etiquette" classes for young girls teaching them proper table manners.

Once it was determined that the tea room presented possible interaction with minor children, his supervising probation officer advised the offender to cease all functions that result in such interaction until the matter could be more closely reviewed. The probation officer and supervising probation officer met with Mr. Benavidez and discussed options to control potential third party risk. It was determined that the offender would cease his duties as food server and that he would not be present in the establishment during the hours of the children's parties or the etiquette classes. The probation officer requested the treatment provider conduct a polygraph examination focusing on Mr. Benavidez truthfulness regarding his contact with minors at his placement of employment. The offender denied any interaction with minors and there was no deception indicated in his responses.

The Probation Officer believes that the current restrictions on Mr. Benavidez' work schedule address the risk to the community and monitor his compliance with the Court's orders. He is in compliance with the other terms and conditions and there have been no known violations. He maintains a stable residence with his wife and son. He participates in weekly sex offender group sessions and appears to be making progress. He meets with a psychiatrist monthly to monitor his psychotropic medications. He is also maintaining the court-ordered restitution payment schedule and maintains a cooperative attitude with the probation office in the Central District of California.

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The Central District of California has requested that this information be forwarded to Your Honor and that Your Honor approve the probation officer's plan. Should the Court have any questions, the undersigned can be reached at (916) 930-4318.

Respectfully submitted,

**/s/Lori L. Koehnen**  
**LORI L. KOEHNEN**  
**Senior United States Probation Officer**

Dated: December 22, 2009  
Sacramento, California  
LLK/cp

**REVIEWED BY:** /s/Lori L. Koehnen for  
**KYRIACOS M. SIMONIDIS**  
**Supervising United States Probation Officer**

cc: To be determined  
Assistant United States Attorney

Dennis Waks  
Defense Counsel

APPROVE: \_\_\_\_\_ x \_\_\_\_\_

December 23, 2009

  
**WILLIAM B. SHUBB**  
UNITED STATES DISTRICT JUDGE